



RESOLUTION NO. 15-036

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING THE CITY COUNCIL APPROVAL OF GENERAL PLAN
AMENDMENT GP15-0002, SPECIFIC PLAN AMENDMENT ST15-0001, REZONE
RZ15-0005, SITE DEVELOPMENT PERMIT SD15-0006, USE PERMIT UP15-0010, AND
MAJOR TENTATIVE MAPS MT15-0006, MT15-0007, MT15-0008 AND MT15-0009 FOR
THE CENTRE POINTE AND HOURET COURT PROJECT LOCATED AT 1320 and
1425 MCCANDLESS DRIVE, 1463, 1515, 1557, AND 1585 CENTRE POINT DRIVE,
AND 231, 247, 271 HOURET DRIVE, AND 1757 HOURET COURT**

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan (the “EIR,” State Clearinghouse No. 2006032091), and subsequently adopted the Transit Area Specific Plan (the “TASP”); and

WHEREAS, the Transit Area Specific Plan encompasses some 437 acres and envisions the development of 7,109 dwelling units, 287,075 square feet of retail space, and 993,843 square feet of office space and industrial. It includes development standards, goals and policies guiding development within the Plan area. Due to the physical characteristics of the area, including major streets, railroads and creeks, the Transit Area Specific Plan also established sub-districts with specific goals and policies to accommodate those unique characteristics; and

WHEREAS, on June 16, 2015, an application was submitted by Lyon Communities for a large-scale development within the TASP, consisting of an amendment to the previously approved District One, lots 2, 3 and 4 Site Development Permit and Conditional Use Permit to eliminate lot 3 from the District 1 project and replace the two mixed use buildings (totaling 392 dwelling units and 6,000 square feet of commercial retail) on lots 2 and 3 with two five-story mixed-use buildings consisting of 391 residential units and 17,421 square feet of ground floor retail and office space and to allow the development of a 147 room hotel, a 423 dwelling unit building with 56,982 square feet of retail space and 349 for sale residential units with associated site improvements on 26.65 acres on Centre Pointe Drive and Houret Court parcels (APNs: 086-33-093, 086-33-101, 086-33-086, 086-33-087, 086-33-088, 086-33-089, 086-41-034, 086-41-033, 086-41-032, 086-41-009) located within the Transit Area Specific Plan area – McCandless/Centre Pointe and Montague Corridor sub-districts; and

WHEREAS, an Addendum to the TASP EIR has been prepared for the project in accordance with the California Environmental Quality Act (CEQA), and;

WHEREAS, on October 28, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties; and

WHEREAS, on October 28, 2015, the Planning Commission adopted Resolution No. 15-035, recommending the City Council approve an Addendum to the Environmental Impact Report Prepared for the Transit Area Specific Plan (State Clearinghouse No. 2006032091) in support of the Centre Pointe and Houret Court Project located at 1310-1360, 1400-1460 and 1415-1475

McCandless Drive, 1463, 1501, 1507, 1515, 1536-1567, and 1577-1601 Centre Point Drive, and 231, 247-269, 274 and 1147 Houret Court; and

WHEREAS, on October 28, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties; and

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

1. The Planning Commission has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Pursuant to Section 57 of the Zoning Code, the Planning Commission is required to make specific Findings before recommending approval of a General Plan Amendment, Specific Plan Amendment, Zoning Amendment, Site Development Permit, Vesting Tentative Subdivision Map, and Use Permit. Findings shall identify the rationale behind the decision to take a certain action. Each code-required Finding is analyzed below.

The Proposed Project

Lyon Communities has submitted applications to entitle an approximately 26.65-acre area (the “project area”) within the Transit Area Specific Plan (TASP) to develop a master-planned, mixed use development comprised of a mix of multi-family residential, commercial, retail uses, and residential for sale units with loft and townhouse product types. The project consists of six distinct subareas, the development standards for which will be entitled through a Site Development Permit that encompasses the entire project site and all six subareas. Vesting tentative subdivision maps have been approved for two of the subareas (District Lot 2 and District Lot 4), and the project requests approval for Vesting tentative subdivision maps for the remaining four subareas (Centre Pointe B, Centre Point C, Houret, and District Lot 3A).

General Plan Amendment

The project requests a General Plan Amendment to amend the General Plan Land Use Map (Figure 2-1, General Plan Land Use Map, October 2012) to change the land use designation for an approximately 3-acre area within the Centre Pointe B subarea from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential. The requested General Plan Amendment is limited to a map change only. No changes to the text of the General Plan is proposed.

In support of the General Plan Amendment, and as required by Milpitas Municipal Code Section XI-10-57.02(G)(1), the City hereby finds:

1. The proposed amendment is internally consistent with those portions of the General Plan, which are not being amended.

The proposed amendment is limited to a map amendment to change the land use designation of an approximately 3-acre area from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential. The 3-acre area is within the subarea of the TASP designated Centre Pointe B and lies immediately adjacent to other areas designated High Density Transit Oriented Residential and will allow the area to be developed consistent with the surrounding property. The proposed amendment will provide for greater land use compatibility with surrounding existing and proposed development. The proposed amendment does not change any other provisions of the General Plan and the General Plan would remain internally consistent.

2. The proposed amendment will not adversely affect the public health, safety, and welfare.

The proposed amendment changes the land use designation of an approximately 3-acre area to the same land use designation of the properties to the south and west. The proposed amendment would allow for land uses compatible with the surrounding and proposed development, and would not adversely affect public health, safety and welfare. Development pursuant to the proposed amendment would be required to comply with the development standards of the TASP, as such standards may be amended through issuance of a conditional use permit, and would be within the range of environmental impacts, e.g., traffic, air emissions, noise, etc., projected to occur from buildout of the TASP such that it would not result in adverse effects on public health, safety and welfare. The TASP is a component of the City's General Plan and is consistent with the City's General Plan. Development consistent with the TASP would be considered consistent with the General Plan as well.

Specific Plan Amendment

The project requests an amendment to the Transit Area Specific Plan (TASP) to (1) change the land use designation of the same portion of Centre Pointe Site B discussed above from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential (Figure 3-1, TASP), as depicted in Exhibit 3, attached hereto and incorporated herein, and (2) to amend the TASP Zoning District Map (Fig 5-21) to change the zoning district designation on an approximately 3-acre portion of the Centre Pointe B subarea site from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay), as depicted in Exhibit 4, attached hereto and incorporated herein. The requested TASP Amendment is limited to a map change only. No changes to the text of the TASP are proposed.

In support of the Specific Plan Amendment, and as required by Milpitas Municipal Code Section XI-10-57.02(G)(2), the City hereby finds:

3. The proposed specific plan or specific plan amendment is consistent with the goals, objectives, policies, and programs of the General Plan, and is necessary and desirable to implement the provisions of the General Plan.

The project proposes a General Plan Amendment that would amend the land use designation for this area to High Density Transit Oriented Residential. The proposed amendments would allow this area to be developed under the same land use designation and largely the same development standards as the existing uses to the west of the area, and proposed uses to the south. The proposed amendment maintains the goals of the General Plan and TASP to promote high density residential development close to retail and commercial areas and close to transit, including the BART station and VTA light rail line.

4. The uses proposed in the specific plan or specific plan amendment are compatible with adjacent uses and properties.

The proposed amendments would allow this area to be developed under the same land use designation and largely the same development standards as the existing uses to the west of the area, and proposed uses to the south. The proposed density of development would be compatible with existing and proposed surrounding residential development, and in carrying out the goals and objectives of the TASP would be compatible with proposed neighborhood serving retail and commercial uses proposed in the immediately surrounding area.

5. The proposed specific plan or specific plan amendment will not adversely affect the public health, safety and welfare.

The proposed amendments will allow this area to be developed at a density of development that would be compatible with existing and proposed surrounding residential development. Development pursuant to the proposed amendment would be required to comply with the development standards of the TASP, as such standards may be amended by issuance of a conditional use permit, and would be within the range of environmental impacts, e.g., traffic, air emissions, noise, etc., projected to occur from buildout of the TASP such that it would not result in adverse effects on public health, safety and welfare.

6. The proposed specific plan amendment will not create internal inconsistencies within the specific plan.

The proposed amendments are limited to map amendments to (1) change the specific plan land use designation from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential, and (2) rezone from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay for an approximately 3-acre area. The 3-acre area is within the subarea designated Centre Pointe B and lies immediately adjacent to other areas designated for development pursuant to the Multiple Family High Density with Transit Oriented Residential Overlay specific plan zoning and land use designations.

The proposed amendments do not change any other provisions of the TASP and the TASP would remain internally consistent.

Zoning Amendment

The project requests an amendment to change the zoning designation of an approximately 3-acre area within the Centre Pointe B subarea from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay).

In support of the Zoning Amendment, and as required by Milpitas Municipal Code Section XI-10-57.02(G)(3), the City hereby finds:

7. The proposed amendment is consistent with the General Plan.

The General Plan land use designation for the site will be High Density Transit Oriented Residential upon approval of the proposed General Plan Amendment. This land use designation is intended for medium density residential neighborhoods further from BART, at the interior of subdistrict neighborhoods. A minimum average gross density of 21 units per acre is required, up to a maximum of 40 units per acre. (General Plan Land Use Element at 2-12; TASP at 3-11.) The R3-TOD zoning development standards are consistent with the General Plan setting forth a residential density of 21-40 du/gross acre. (TASP Table 5-1.)

8. The proposed amendment will not adversely affect the public health, safety and welfare.

The proposed zoning amendment is consistent with the proposed General Plan land use designation. The proposed zoning amendment will allow for development consistent with the adjacent existing and proposed residential uses. The density and intensity of development allowed under the proposed zoning amendment is within the range of impacts considered in the TASP Environmental Impact Report, and development pursuant to the proposed zoning amendment will not adversely affect public health, safety and welfare.

Site Development Permit

In support of the Site Development Permit, and as required by Milpitas Municipal Code Section XI-10-57.03(F)(1), the City hereby finds that:

9. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.

The proposed project's site and design are consistent with the intent of the TASP policies and the TASP development standards. The project proposes the most intense development and uses along Great Mall Parkway (hotel, commercial and multifamily residential) with

townhomes and loft residential product types provided in the interior areas of the project site adjacent to similar types of residential development. The proposed project provides for ground floor retail on Market Street which has been designed as a two-way street with onstreet parking to promote easy access to the retail uses along this corridor. The heights of the proposed structures are also consistent with the TASP by concentrating taller buildings and more intense uses, such as the hotel, along Great Mall Parkway with less intense residential uses within the interior of the site. The proposed project provides landscaped areas along all street corridors consistent with the TASP, and provides walkways and paseos that encourage pedestrian travel between the residential and commercial areas.

In terms of other pedestrian and walkway improvements, the project will set aside sufficient area along Montague in order to accommodate a land area for the pedestrian overcrossing that is contemplated under the TASP. Finally, the project proposes walkways throughout the project that connect to a proposed recreational trail segment along East Penitencia Creek that the project will provide.

10. The project is consistent with the Milpitas Zoning Ordinance.

The project is zoned:

Mixed Use – Boulevard with Transit Oriented Development (TOD) Overlay (MXD3-TOD)

Mixed Use – Boulevard (MXD3)

Mixed Use – High Density with Retail with TOD Overlay (MXD2-TOD)

Multiple Family – High Density with TOD Overlay (R3-TOD)

The overall project density of development is falls within the range of development contemplated under these zoning districts consistent with TASP Policy 3.8., which allows contiguous developments to build at higher or lower residential densities so long as the project's average density falls between the designated minimum and maximum. The project's average density is 43.64du/ac and is within the overall designated minimum and maximum densities allowed for the project area under the TASP. The project also implements and is consistent with the permitted uses, and the development standards set forth in the Milpitas Zoning Code. Where deviations from those development standards have been identified, those exceptions are addressed by the City pursuant to the provisions of the TASP which permit the City to grant exceptions from strict compliance with the development standards.

11. The project is consistent with the Milpitas General Plan.

The project's land uses will be developed consistent with the residential and commercial uses contemplated by the General Plan land use designations for the project area. The project's overall density and intensity of development is consistent with the goals and objectives for development of this area. A portion of the project area is designated for Transit Oriented Development which the General Plan notes is for areas located near

transit stations, and provides for special requirements regarding development density, parking, mix of uses and transit supportive design features. The project provides for high density multi-family development, ground floor retail areas, a hotel and commercial uses all within close proximity to similar residential neighborhoods and transit stations.

The project is consistent with the following General Plan Land Use Guiding Principles:

2.a-G-2: Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.

The project is an urban infill redevelopment project that redevelops an underutilized industrial business park area with residential and commercial uses envisioned by the TASP. It is designed as a high density residential development with commercial and retail uses that serve both visitors as well as residents.

2.a-G-3: Provide for a variety of housing types and densities that meet the needs of individuals and families.

The project provides a mix of residential development types and densities. It provides multifamily uses in densities ranging from 77 du/acre in 9 and 10-story buildings along Great Mall Parkway, to 4 and 5-story residential multi-family projects with ground floor retail to 3 and 4-story for sale townhomes. The project provides a variety of housing choices for individuals and families in Milpitas.

2.a-G-5: A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system laced throughout all living areas.

The project provides landscaped areas along all perimeters of the various subareas. It provides a new landscaped, gathering area/entry point at the corner of McCandless and Market Street, and an open greenspace between District Lot 4 and the adjacent existing residential development. In addition, the project provides landscaped paseos throughout the single family residential neighborhoods (Centre Points B and C and Houret), and proposes to vacate a street right of way for use by the school district for park and athletic fields. Finally the project proposes to construct a recreational trail segment along East Penitencia Creek consistent with the City's trail plans.

2.a.I-2: Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.

The project is an urban infill redevelopment site within incorporated limits that is consistent with and implements the goals and objectives of the TASP.

2.a.1-31: Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike and take transit. Design streets and public spaces to create lively and attractive street character, and a distinctive identify for each subdistrict.

The project provides a mix of residential, commercial and retail uses for residents and visitors in proximity to transit opportunities. The project provides landscaped walkways and paseos and trails to promote walkability and the use of bikes, including providing land to be used for a landing area for the future bridge over Montague, providing a recreational trail along the Creek, and a bridge over the Creek to link the residential areas to the school site.

2.a.1-32 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.

The project implements the development standards and design guidelines in the TASP.

12. In the case of a project located within a Specific Plan, the following additional finding shall be made:

a. The project is consistent with the Specific Plan.

The project implements the range of uses, the density of development and the development standards as set forth in the TASP. Where exceptions from TASP development standards have been identified, the project has provided for public benefits not otherwise obtainable through the strict application of the Zoning Standard. A list of the public benefits identified by the City and the project proponent is set forth in the City's staff report, and includes the following: development of a hotel that provides a new source of revenue (TOT) and new employment opportunities for the city; provision of land to construct a landing area for the proposed bridge over Montague; provision of a recreational trail link along East Penitencia Creek, and a new bridge connection over East Penitencia Creek. In addition, the exceptions requested do not detract from the overall architectural, landscaping and site planning integrity of the proposed development. The project has been planned to encompass six subareas all of which are part of an overall master plan that concentrates retail and commercial development along the proposed Market Street corridor and in District 3A where the hotel will be developed and the highest intensity multifamily residential project will be built. Landscaping along the streets and greenspace with the developments are provided as envisioned by the TASP.

Major Tentative Map Findings (Section XI-1-20.01)

13. The tentative subdivision map is consistent with the Milpitas General Plan.

The subdivision maps provide the residential and commercial uses contemplated by the General Plan land use designations for the area. Where the density of residential uses may exceed the ranges of density contemplated by the General Plan, the City has determined that pursuant to TASP policy 3.8, the City may “Allow contiguous developments to build at higher or lower residential densities, so long as their average density falls between the designated minimum and maximum.” The City finds that the average density of the six subareas within the project and the Site Development Permit is within the General Plan’s designated minimum and maximum density and will condition the entirety of the project to ensure this remains the case.

In addition, per Government Code § 66473.1, the design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

The project design incorporates various measures to provide for such opportunities. District Lots 2, 3A and 4 will have rooftop recreation decks, including softscapes (landscaping, trees, etc.) which account for a substantial portion of the roof area and reduces direct solar heat gain and urban runoff. The majority of facade windows on all residential units will be recessed to minimize direct sunlight. Moreover, over 850 trees are being planted to block solar exposure. In addition, flat roof design allows for easy installation of solar panels. All roof tops will be wired for solar panels and will be built to accommodate solar panel installation. Furthermore, all residential units will be designed to meet Title 24 requirements and CalGreen requirements. Where feasible, buildings are oriented in north/south direction to minimize direct solar exposure. Finally, all residential units will have operable windows for natural ventilation.

Conditional Use Permit

A conditional use permit may be used to permit exceptions or deviations to the development standards in the TASP. The following exceptions were identified for the proposed project:

Feature	Standard	Proposed	Justification
District Building Lot 2			
Ground floor elevations relative to the public sidewalk	Maximum of 2' above public sidewalk	Varies between 2.6'-5'	Flood zone and hydrology for this area create this constraint
Balconies	40 square foot balconies on all units	No balconies on 17 studio units	Ample common area amenities are provided throughout project. Balconies not provided for 17 studio units, as it will negatively impact architectural aesthetics.
District Building Lot 4			

Feature	Standard	Proposed	Justification
Depth of ground floor commercial space	Typical: 75' Minimum: 60'	Provided: 31' – 45'; 44'-58' (when considering outdoor patio space)	It is assumed that many of the retail spaces will be used for restaurants. Wider tenant blocks are to be provided to make up for shorter depths. Generous outdoor patio spaces provided for outdoor seating which is also an offset to the lack of depth in the building space. Retailers will be encouraged to use this space to activate the retail promenade along both sides of Market Street.
Ground floor elevations relative to public sidewalk	Maximum of 2' above public sidewalk.	1.7'-5.5'	Flood zone and hydrology for this area create this constraint.
District / Centre Pointe Building 3			
Depth of ground floor commercial space	Typical: 75' Minimum: 60'	35'-90'; 50'-105' when factoring in patio dimension	It is assumed that many of the retail spaces will be used for restaurants. Wider tenant blocks are to be provided to make up for shorter depths. Generous outdoor patio spaces provided for outdoor seating which is also an offset to the lack of depth in the building space. Retailers will be encouraged to use this space to activate the retail promenade along both sides of Market Street.
Block size	Minimum: 2 acres Maximum: 4 acres	5.50 acres	Block is broken with public access through an urban retail plaza connecting Great Mall Pkwy to Market Street. Even with this separation, the smaller block (which includes the public plaza and hotel) is smaller than the 2 acre minimum.
Ground floor elevations relative to public sidewalk	Maximum of 2' above public sidewalk.	2'-6'	Variance.

Feature	Standard	Proposed	Justification
Balconies	40 square foot balconies on all units	No balconies on 30 two bedroom units	Ample common area amenities provided throughout project. Balconies not provided for 30 two bedroom units, as it will negatively impact architectural aesthetics and site layout.
Centre Pointe B			
Guest parking	21 spaces (onsite)	8 onsite 13 on-street	Parking requirement for project is exceeded by 32 spaces (more garage spaces provided than requirement). Also, while 13 spaces need to be accounted for "on-street", there are 70 on-street spaces available on the surrounding streets.
Setback (on Bond Street)	8'	7' (total setback deficiency of 563 square feet)	Accommodating walkway/paseo trails through the site resulted in site restrictions.
Centre Pointe C			
Guest parking	28 spaces	26 on-site 2 on-street	Parking requirement for project is exceeded by 54 spaces (more garage spaces provided than requirement). Also, while 2 spaces need to be accounted for on-street, there are 48 on-street spaces.

Per Milpitas Municipal Code Section XI-10-57.04(F), the following findings are required to be made in order to approve a conditional use permit:

14. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare;

None of the deviations requested are detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. The requested increases in the maximum elevation of the ground floor relative to the public sidewalk are a direct result of FEMA requirements that apply due the project's location and are intended to, among other things, increase public safety. The reduction in balconies provided has no impact on property or improvements in the vicinity and poses no danger to the public health, safety, or welfare. A reduction in the depth of ground floor commercial space is offset by wider frontages and likewise has no detrimental or injurious impact on property

or improvements in the vicinity of the project, and will have no impact on public health, safety, or welfare. An increase in the maximum block size is not detrimental or injurious to property or improvements in the vicinity and may even be beneficial in this regard, as the larger block will be bisected by publically accessible connections that will improve pedestrian circulation through the site. No detrimental impacts to public health, safety, or general welfare will result from such deviation. Reduced guest parking standards for a very small portion of the overall parking requirement have no deleterious impact on property or improvements, nor to the public health, safety, or general welfare, as the overall parking requirement for the project is exceeded by 32 spaces and the project, which is transit oriented, is extremely well-served by public transportation. Finally, a one foot reduction in the setback requirement on Bond Street is not detrimental or injurious to nearby properties or improvements, or the public health, safety, or welfare as the setback reduction is the direct result of planning multiple walkways and paseo trails through the site and still offers a protective 7' buffer.

The mix of uses proposed by the project are consistent with the range of uses contemplated by the TASP, including the development of a hotel within this area of the TASP in close proximity to the Great Mall as well as transit opportunities. The proposed density of development falls within the designated minimum and maximum residential densities for this area of the TASP. The number of residential units, commercial square footage and hotel rooms are all within the ranges that were anticipated upon buildout of the TASP, and the environmental impacts of the development of the proposed project do not exceed the projections or analysis in the environmental impact report prepared for the TASP.

15. The proposed use is consistent with the Milpitas General Plan; and

See above re General Plan consistency findings. In addition, the Planning Commission also finds that the proposed deviations are consistent with the General Plan as follows:

Land Use Policy 2.A.1-24 Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each subdistrict.

The requested setback reduction is consistent with this policy in that it is the result of weaving pedestrian walkways and trails through the site, creating greater pedestrian connections. Reduced guest parking reflects the transit-oriented nature of the project and further develops the transit area in the spirit intended by the General Plan. A reduction in the depth of ground floor commercial space is offset by the wider frontages and outdoor seating, which is intended to activate the street.

Seismic and Safety Policy 5.b-G-1 Minimize threat to life and property from flooding and dam inundation.

Increasing the ground floor elevations relative to the public sidewalk is intended to reduce the threat to life and property from flooding and dam inundation.

16. The proposed use is consistent with the Milpitas Zoning Ordinance.

See above re Zoning Ordinance consistency findings.

17. In the case of a project located within a Specific Plan, the following additional finding shall be made:

- a.* The proposed use is consistent with the Specific Plan.

The project implements the range of uses, the density of development and the development standards as set forth in the TASP. Where exceptions from TASP development standards have been identified, the project has provided for public benefits not otherwise obtainable through the strict application of the Zoning Standard. A list of the public benefits identified by the City and the project proponent is set forth below. In addition, the exceptions requested do not detract from the overall architectural, landscaping and site planning integrity of the proposed development. The project has been planned to encompass six subareas all of which are part of an overall master plan that concentrates retail and commercial development along the proposed Market Street corridor and in District 3A where the hotel will be developed and the highest intensity multifamily residential project will be built. Landscaping along the streets and greenspace with the developments are provided as envisioned by the TASP.

The City further finds that the deviation from the Transit Area Specific Plan allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard. A list of the public benefits identified by the City and the project proponent includes the following:

Feature	Description	Estimated Value
Real property	Mapping of Dedication and Vacation of Houret Drive cul de sac for benefit of School District	\$10,000 (in civil engineering fees)
Free shuttle service	Hotel shuttle, seating 20-25 passengers, providing service to project area on weekdays from 6-9 a.m., 11 a.m.-1 p.m., and 4-7 p.m., with designated stops within the project site, as well as stops at the BART station, VTA station, bus terminal, and Great Mall. An operating plan will be submitted for city staff review.	Estimated startup cost of \$100,00 per shuttle Estimated Annual Cost of \$150,000 per shuttle

Feature	Description	Estimated Value
		The feature would increase commerce to the Great Mall and on-site retail areas, increase use of BART and other local public transportation, decrease wear and tear on local streets, decrease parking demand, decrease pollution, and increase project marketability.
Bike share program	Participate in VTA bike share program providing rent-a-bike parking	Not yet calculated
Rooftop deck	1.16 acre rooftop amenity deck located at Lot 3, which will be publically accessible private open space	Not yet calculated
Pedestrian bridge contribution	Contribution to funding of the pedestrian bridge over Penitencia Creek	\$250,000
Fire equipment	Funding for a Fire Department Rapid Response Vehicle	\$500,000

The City finds that the requested deviations from the TASP standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development. The project has been planned to encompass six subareas all of which are part of an overall master plan that implements the land uses and distribution of uses contemplated by the TASP by concentrating retail and commercial development along the proposed Market Street corridor and in District 3A where the hotel will be developed and the highest intensity multifamily residential project will be built. Landscaping along the streets and greenspace with the developments are provided as envisioned by the TASP.

- 18 The Planning Commission recommends the City Council approve the General Plan Amendment GP15-0002, Rezone RZ15-0005, Specific Plan Amendment ST15-0001, Site Development Permit SD15-0006, Use Permit UP15-0010, Major Tentative Maps MT15-0006, -0007, -0008, -0009, and Environmental Impact Assessment EA15-0005 to adopt a General Plan Amendment and Transit Area Specific Plan Amendment to change the land use designation from Residential-Retail High Density Mixed (RRMU) to High Density Transit Oriented Residential (HDTOR), and a Rezone from MXD2 to R3 for a portion Centre Pointe Lot B; and to eliminate Lot 3 (mixed-use building with approximately 169 dwelling units and 27,187 of retail square footage) from District 1 Project, and replace two

approximately 400,000 square foot mixed-use buildings on Lots 2 and 4 totaling 392 residential units and approximately 6,000 square feet of commercial-retail space with two five-story mixed-use buildings consisting of 391 residential units and 17,421 square feet of ground floor retail and office space on the District Lots 2 and 4; and to approve a Site Development Permit, Major Tentative Maps and a Conditional Use Permit for the construction of a 175 room hotel, a 423 dwelling unit building with 56,982 square feet of retail on a portion of the District Lot 3, and 349 for sale units on Centre Pointe Drive and Houret Court parcels, and associated site improvements on 26.65 acres, subject to the above findings, and the Conditions of Approval attached hereto as Exhibit 1, General Plan Amendment, attached hereto as Exhibit 2, the Specific Plan Amendment attached hereto as Exhibit 3, and the Zoning Map Amendment attached hereto as Exhibit 4.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on October 28 2015:


Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on October 28 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal			✓	
Lawrence Ciardella			✓	
Hon Lien	✓			
Rajeev Madnawat			✓	
Ray Maglalang	✓			
Zeya Mohsin (Alternate)	✓			
Demetress Morris	✓			
Gurdev Sandhu	✓			

EXHIBIT 1

CONDITIONS OF APPROVAL

THE DISTRICT LOTS 2, 3, 4 AMENDMENT AND CENTRE POINTE LOT 3A, B AND C, AND HOURET COURT 1 AND 2 DEVELOPMENT PROPOSAL – GP15-0002; RZ15-0005; ST15-0001; EA15-0005; SD15-0006; MT15-0006, MT15-0007, MT15-0008, MT15-0009; UP15-0010.

GENERAL CONDITIONS

1. **General Compliance.** The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This DEVELOPMENT PERMIT NO. SD15-0006, CONDITIONAL USE PERMIT UP15-0010, TENTATIVE MAP NO. MT14-0004 (collectively “Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County’s Recorder Office and a copy shall be provided to the Planning Department. (P)
2. The Permittee shall develop the approved project in conformance with the approved plans (dated _____), sample color and materials board approved by the City Council, in accordance with these Conditions of Approval. (P)
3. Modifications to project. Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)
4. Previous Planning Application. Previously approved Planning Applications for District One, Lots 2, 3 and 4, TM 11-002 Site Development Permit SD11-009 and Conditional Use Permit UP11-0037 shall be rescinded and replaced completely with the adoption of this Resolution. (P)
5. Conditions of Approval. As part of the issuance of building permits, the Permittee shall include within the first four pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. (P)
6. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. (ALL)
7. Permit Expiration. Pursuant to Section XI-10-64.06 of the Milpitas Zoning Code, this Permit shall become null and void if the development is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, the term of which may be extended upon approval by the City or the filing of a final map, then the term of the permits

shall coincide with the life of the map. Pursuant to Section XI-10-64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement is defined when the project:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
8. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
9. Project Job Account. If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, the review of permits will not be initiated until the balance is paid in full. **(E)**.
10. Indemnification. The project applicant, and its heirs, successors, and assigns, shall indemnify, defend with counsel of the City's reasonable choosing, and hold harmless City and its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void, or annul the City's approval of Site Development Permit No. SD15-0006, Conditional Use Permit No. UP15-0010, and Vesting Tentative Map Nos. 15-0006, 15-0007, 15-0009, and 15-0008, including any environmental determination made therefore. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The applicant shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition, provided each such demand or monthly payment request includes reasonably detailed back-up documentation, including invoices and/or receipts, as applicable, for all amounts to be paid. Notwithstanding the foregoing, City shall have the right to redact invoices and/or receipts as necessary to preserve attorney-client privilege. City shall promptly notify the project applicant of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense. If City fails to so promptly notify the project applicant, or if City fails to engage in reasonable efforts to cooperate in the defense, then the project applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The project applicant shall not be required to pay or perform any settlement unless the settlement is approved by the project applicant. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Maps Nos. 15-0006, 15-0007, and 15-0008, and the balance of the Permit shall be unaffected by said Government Code section. **(CA)**
11. Compliance with Fire Department and CA Fire Code. The Project shall comply with the requirements of the Milpitas Fire Department and the CA Fire Code as adopted by the City.

Changes to the site plan and/or building(s) requires review and approval by the Fire Department. (F)

Conditions of Approval for All Subareas in the Site Development Permit

12. Prior to issuance of the first Building Permit within each subarea of the Site Development Permit (District Lot 2, District Lot 4, Centre Pointe B, Centre Pointe C, District Lot 3A, and Houret), the Permittee shall submit project identification signs for the respective subdivision for review by the Planning Division. (P)
13. Prior to final map approval, Permittee shall submit the project Flood Study, demonstrating to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments (Integral, Lyon District 1, Montague Residential Project, DR Horton @ McCandless, Montague/Piper TASP sub-district, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one/tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. (E)
14. Prior to final map approval, the Permittee shall submit a final grading plan and drainage study prepared by a registered Civil Engineer. The plans shall satisfy the conclusions and recommendations of the approved drainage study. (E)
15. Construction Storm Water Quality. Permittee shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay Regional Water Quality Control Board (Regional Board). Prior to the issuance of any building, demolition, or grading permit, Permittee shall submit an Erosion and Sediment Control Plan (Erosion Control Plan) as a part of the improvement plan submittal. The erosion control plan shall show all construction best management practices (BMPs) and shall comply with the requirements of the NPDES, the Municipal Regional Permit Order R2-2009-0074 (MRP), and the City's stormwater and urban runoff pollution control standards and guidelines (City's Clean Water Program). Permittee shall ensure that all contractors and subcontractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the Milpitas Municipal Code (MMC), and the City's Clean Water Program. (E)
16. Construction General Permit Compliance. Permittee shall comply with the requirements of the Construction General Permit as administered by the State and Regional Boards. Permittee shall obtain a Construction Activities Storm Water General Permit (State Permit) from the State Board. Prior to any construction activities and prior to the issuance of any building, demolition, or grading permit, Permittee shall submit:

- A. a complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover,
- B. a copy of the approved Notice of Intent (NOI) from the State Board, and
- C. an erosion control plan and a site monitoring plan meeting the satisfaction of the City Engineer.

Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all storm water quality control measures as required by the approved SWPPP, the approved erosion control plan, the MMC, and the City's Clean Water Program.

Prior to final occupancy, Permittee shall submit an approved Notice of Termination (NOT). For phased occupancy, Permittee shall submit a Change of Information (COI) or an NOT approved by the State Board that removes each phase of occupancy from the boundaries of the State Permit prior to the issuance of occupancy for that phase. Contact the State and Regional Boards for questions regarding your specific project. For general information, contact the City of Milpitas Engineering Division at (408) 586-3325. (E)

17. The Permittee shall comply with Municipal Regional Permit (MRP) Order R2-2009-0074 and successor orders for post construction C3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009—0009 NPDES No. CAS000002 or as required by the Regional Board at the time Permittee submits the NOI for the project for pre-construction storm water treatment requirements. (E)
18. Prior to final map approval, Permittee shall submit a Storm Water Control plan that incorporates best management practices (BMPs) for treatments of stormwater run-off from all parcels. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable pavement BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer.
 - A. Permittee shall submit a final Storm Water Control Plan package for review and approval with the building permit submittal.
 - B. The Plan shall be prepared by a licensed Civil Engineer qualified and trained professional with storm water treatment process and certifies that measures specified in the report meet the MRP requirements.

- C. Prior to issuance of Certificate of Occupancy, the Permittee shall submit a Storm Water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
- D. Permittee shall include in the approved covenants, conditions, and restrictions (CC&Rs) the requirement to provide the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements.
- E. Prior to final occupancy, the Permittee shall execute and record an Operations and Maintenance Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
- F. Permittee shall comply with all "Model Conditions Of Approval For Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval. (E)

19. Water Supply and Force Majeure The City currently has adequate water supply and sewerage treatment plant capacity allocation for this land development project. The City reserves the right to suspend the issuance of building permits to implement this land use development, if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. Although vesting tentative maps have been approved for each subarea within the Site Development Permit which provides vested rights as defined in Government Code Section 66498.1, no vested right to the issuance of a Building Permit is acquired by the approval of this land development in the event the City's ability to deliver water and sewer treatment is affected by force majeure pursuant to the criteria set forth above. This condition of approval applies in case of an emergency declaration of water supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. Pursuant to Government Code Section 66452.6, in the event the issuance of building permits is suspended due to lack of available water supplies, the period of time set forth as the term for the vesting tentative map in Government Code Section 66452.6(a)(1) shall be tolled for up to five years until said suspension is terminated. (E)
20. Water, Sewer and Storm Drain Studies. Prior to recordation of each final map, the Permittee shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for the final map subdivision. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines.

If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the Permittee will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, as determined by the City Engineer. (E)

21. Solid Waste. Prior to building final inspection or building permit occupancy of any units, Permittee shall construct a new trash enclosure to serve the subdivision. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. The enclosure will be subject to the City's review/approval prior to construction of the enclosure. If the facility cannot be accommodated within the building, then the exterior location, as shown in Sheet G005 of the project plans, will be refined by the applicant to meet superior design, materials, pavement, and landscaping qualities compatible with the adjacent future park development, subject to the City's review/approval prior to construction of the enclosure facility. Prior to any final map approval within the project a trash collection program must be submitted to and approved by the City.(E)
22. Per Chapter 200, Title V, Solid Waste Management, V-200-3.10, *General Requirement*, Permittee shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Trimmings Collection Services*, Permittee shall subscribe to and pay for solid waste services rendered. Prior to any building permit issuance, Subdivider shall incorporate following solid waste services requirements to the satisfaction of the City Engineer:
 - A. Proposed solid waste enclosure shall be designed per the Development Guidelines for Solid Waste Services to house all necessary equipment. The access to the location and size of the enclosure shall be designed to the City Engineer's satisfaction and shown on the plans prior to building permit issuance. The enclosure drains must discharge to the sanitary sewer line. Storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements.
 - B. The Permittee shall be responsible for solid waste management, including transfer of material to the compactors. Prior to final map approval, Permittee shall submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. The Plan shall state how the residential waste will be conveyed to the collection area for disposal. Show the path of travel for refuse. Demonstrate how recycling shall have a separately maintained process from garbage handling.
 - C. Prior to certificate of occupancy issuance, the Permittee shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Republic Services (formally BFI). After the applicant has full occupancy,

the Permittee shall contact the Republic Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the Permittee shall increase the service to the level determined by the evaluation. (E)

23. Community Facilities District. Prior to final map approval, the Permittee shall submit an executed petition to annex the subject property into the CFD 2008-1, and agree to pay the special taxes levied by Community Facility District (CFD 2008-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and any invalidation or limitation of this condition invalidates the Permit. (E)
24. The final map shall be recorded prior to issuance of any building permit for the subdivision covered by that final map. Provide a current title report with the final map submittal, not more than 90 days old. (E)
25. The tentative maps and all final maps shall designate all common lots and easements as lettered lots or lettered easements. (E)
26. Property Management Association/Homeowners Association. Prior to final map approval for each subdivision, the Permittee shall establish the necessary Property Management Association (PMA) and/or Homeowners Association (HOA). The PMA/HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and the local and private streets within the project. The PMA/HOA shall manage the onsite water and sewer system and implement the Solid Waste handling plan. This information shall be clearly included in the CC&Rs and recorded documents. The CC&Rs document shall be submitted for review and approval by the City Engineer. (E)
27. Prior to recordation of any final map, the Subdivider shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
28. All improvements plans shall be prepared using Vertical Datum of 1988 (NAVD 88). The specific city benchmark used for the project shall be indicated on the cover sheet of each improvement plan set. (E)
29. The Permittee shall dedicate on the final map necessary public service utility easements, street easements, public access easement (over private streets and walkways) and easements for water and sanitary sewer purposes. (E)
30. Projects located in the TASP are required to use recycled water for landscape irrigation. All landscaping located within the building footprint shall be served by potable water. Street frontage landscaping shall be served by recycled water. The Permittee shall clearly

delineate the potable irrigation service area and recycled water service areas on the plans and maintain necessary separation as required by the Division of Drinking Water of the State Water Resources Control Board (Division of Drinking Water). The HOA shall own and be responsible for maintenance of all landscaping and irrigation. The recycled water irrigation system shall be under the control of the HOA. (E)

31. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and Permittee shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements; the submitted digital format of the drawings shall be GIS ready. The Subdivider shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Milpitas Transit Area Specific Plan, and all public improvements shall be constructed to the City Engineer's satisfaction and accepted by the City prior to issuance of any first certificate of occupancy for the project. (E)
32. Connection Fees. The Permittee shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - A. Storm water connection fee
 - B. Water connection fee
 - C. Sewer connection fee
 - D. Water Service Agreement(s) for water meter(s) and detector check(s)
 - E. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire (E)
33. Transit Area Impact Fee. Prior to building permit issuance the Permittee shall pay a Transit Area Development Impact fee. The subject fee will be estimated at the time of subdivision Improvement Agreement and will be collected prior to building permit issuance. (E)
34. Development Fees. Prior to building permit issuance, Permittee must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision improvement agreement referred to in condition of approval number 31 herein. (E)
35. Undergrounding Utilities. In accordance with Milpitas Municipal Code XI-1-7.02-2, the Permittee shall underground all existing wires and remove the related poles within the proposed development and along the street frontages, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded.

Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state line voltage. (E)

36. Water Assessment Study. Multistory buildings as proposed will be required to prepare a water assessment study. Additional evaluations by Permittee will be required to assure proper water pressure is available for potable and Fire services. Prior to issuance of a certificate of occupancy for each multistory structure, the Permittee shall submit an engineering report detailing how adequate water supply pressures meeting City standards will be maintained. (E)
37. Encroachment Permits. It is the responsibility of the Permittee to obtain all necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, AT&T, Comcast, Santa Clara Valley Water District (SCVWD), Santa Clara County road and Airport Department, and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
38. Construction Schedule. Prior to start of any construction within District 2, District 4, VTM 15-006 [Centre Pointe B], VTM15-007 [Centre Pointe C], VTM15-008 [District Lot 3A], and VTM15-009 [Houret], the Permittee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. The Permittee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)
39. Utility disconnections. All utilities shall be properly disconnected before the building can be demolished. Permittee shall demonstrate to City staff how the water service(s), sewer service(s) and storm service(s) will be disconnected prior to doing so. The water service shall be locked off in the meter box and disconnected or capped at main line in the street if the water meter is not to be used. The sanitary sewer shall be capped at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. Unless otherwise noted, all utility stubs not utilized shall be capped at the main. (E)
40. Recycling Report. Prior to demolition permit issuance, the Permittee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these resource recovery activities:

A. What materials will be salvaged.

- B. How materials will be processed during demolition.
- C. Intended locations or businesses for reuse or recycling.
- D. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.

Permittee shall make every effort to salvage materials for reuse and recycling and shall comply with all applicable City ordinances on construction and demolition debris. **(E)**

- 41. Recycling. Prior to building permit issuance, Permittee shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division. **(E)**
- 42. Recycling. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the Subdivider, all to the satisfaction of the City Engineer or designee. The Permittee shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Permittee shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. The Permittee shall perform all recycling and/or disposal by removal from the job site. **(E)**
- 43. Sight Distance. The Subdivider shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed two (2) feet when measured from street elevation. **(E)**
- 44. Public Utilities. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. **(E)**
- 45. Encroachment Permit. Prior to any work within public right of way or City easement, the Permittee shall obtain an encroachment permit from City of Milpitas Engineering Division. **(E)**

46. Wastewater. If necessary, the Permittee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755. **(E)**
47. Water. In accordance with Chapter 5, Title VIII, of Milpitas Municipal Code, for new and/or rehabilitated landscaping 500 square feet or larger the Permittee shall:
- A. Provide separate water meters for domestic water service and irrigation service. Permittee is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
 - B. Comply with all requirements of Chapter 5, Title VIII of the Milpitas Municipal Code. Two sets of landscape documentation package shall be submitted by the Permittee to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection. Landscape planting shall be deferred until the on-site recycled water system is approved, constructed, and tested. The recycled water irrigation systems shall be split into several parallel systems to match the construction phasing in order to allow recycled water use at the final occupancy for each phase.
 - C. Contact the Land Development Section of the Engineering Division at (408) 586-3325 for information on the submittal requirements and approval process.
 - D. New landscaping shall comply with codes in effect at the time of building permit issuance unless otherwise provided by applicable law. **(E)**
48. Irrigation. Per Chapter 6, Title VIII of Milpitas Municipal Code; the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. To meet the recycle water guideline the Permittee shall:
- A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
 - B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the California Department of Public Health (CDPH or Division of Drinking Water, as applicable, for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and state approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3325 to obtain copies of design guidelines and standards.
 - C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for

washing eating areas, walkways, pavements, and any other uncontrolled access areas.
(E)

49. Landscape planting shall be deferred until the on-site recycled water system is approved, constructed and tested. The recycled water irrigation systems shall be split into several parallel systems to match the construction phasing in order to allow recycled water use at the final occupancy for each phase. (E)
50. Trees. Per Milpitas Municipal Code Chapter 2, Title X, the Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600, to obtain the requirements and forms. (E)
51. USA. The Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities. (E)
52. Postal. The Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review. (E)
53. Revised Tentative Map. Permittee shall make changes as noted on Engineering Services Exhibit "PT"(dated 11-08-2012) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)
54. Pedestrian Creek Bridge. To ensure that this Permit complies with General Plan Land Principle 2a-6-7, Permittee shall contribute \$250,000.00 towards the design and construction of a pedestrian bridge over East Penitencia Creek in the location as shown on the Site Development Permit. Permittee shall enter into Subdivision Improvement Agreement(s), in a form approved by the City, prior to approval of Final Map MT15-0007 (Centre Pointe B), MT-15-0008 (Centre Point C), and MT15-0009 (Houret) which Agreements shall set forth the percentage of contribution and the payment prior to issuance of the first building permit for each vesting map. (E/P)
55. Trail Improvements. The proposed Penitencia Creek Trail improvements shall be built to the SCVWD's and City's satisfaction.
56. Improvement Schedule. All public improvements and public infrastructure shall be constructed and completed prior to issuance of the first building permit. Improvements include, but are not limited to, curb, gutter, sidewalk, medians, third party utilities, street lights, street trees, utilities, pavement, and related water quality facilities. To implement this condition, Permittee shall perform a GPS survey of all water valves, manholes, underground bends, and record said data on record drawings.
57. All connections to the public water system shall be metered and protected with backflow devices in accordance with City standards. Separate on-site water systems owned and

maintained by the property owners shall serve the project downstream of the master meters. The project is recommended to have two points of connection for each service to provide redundancy. Master meters shall be located in City right-of-way or public service utility easements. Water services shall have a straight alignment between the public distribution system pipe and the water meter (no bends). A combined domestic and fire protection water pipeline is allowed. (E)

58. Locate fire hydrants on the public water system to the maximum extent possible. All hydrants shall be located on a dedicated service lateral. (E)
59. The Permittee shall design public and private utilities in accordance with State and City requirements. (E)
60. Coordinate plans showing landscape, utility, and hardscape to insure no conflicts exist. (E)
61. Building foundations adjacent to public utilities shall be designed to be self-supporting such that the building weight is not required to be supported during shoring and excavation of adjacent utilities. (E)
62. The City shall restore surface conditions to City standards (standard pavement, sidewalk, non-paved surfaces, etc) upon completion of infrastructure repair and/or replacement in City easements. The CC&R shall include the requirement that the HOA is required to restore HOA-owned infrastructure upon completion of City's repair/replacement. (E)
63. Unless otherwise noted and except as set forth in Government Code section 66474.2, City ordinances and other applicable law shall mean the requirements in effect at the time of building permit issuance.
64. The City Council has declared a water supply emergency and enacted a Water Shortage Contingency Plan. The project is required to use recycled water for construction purposes such as dust control and compaction. Landscape planting shall be deferred for any areas designated to use potable water, such as internal podium areas as described below. Water features such as pools and fountains, may not be filled until the drought is over.
65. Hydraulic modeling is required to verify capacity of both existing and proposed water system. Applicant to authorize City to proceed with hydraulic modeling as costs will be charged to Applicant's PJ Account.
66. All connections to the public water system shall be metered and protected with backflow devices in accordance with City standards. Separate on-site water systems owned and maintained by the property owners shall serve the project downstream of the master meters. The project is recommended to have two points of connection for each service to provide redundancy. Master meters shall be located in City right-of-way or public service utility easements. Water services shall have a straight alignment between the public distribution system pipe and the water meter (no bends).

67. Separate potable master water meters are required for the retail use, residential use, fire service, and landscaping located within a podium building footprint.
68. Townhome-style housing shall be served by master water meters at the connection to the public water system. A combined domestic and fire protection water pipeline is allowed.
69. Locate fire hydrants on the public water system to the maximum extent possible. All hydrants shall be located on a dedicated service lateral.
70. The Permittee shall install a 12 inch diameter public water main along Newberry Street between Bond Street and Centre Pointe Drive.
71. Water pipelines in these locations shall be public: McCandless Drive, Market Street between McCandless Drive and Bond Street, Bond Street between Market Street and Newbury Street, Newbury between Bond Street and Centre Pointe Drive, Centre Pointe Drive, Houret Drive, and the Off-Site Water System Improvements described elsewhere in this document. All other water pipelines shall be privately owned and maintained.
72. Hydraulic modeling is required to determine points of connection to the City's sanitary sewer system. Permittee to authorize City to proceed with hydraulic modeling as costs will be charged to Permittee's Project Job Account.
73. The on-site sewer system shall be privately owned and maintained by the property owners. The system shall be designed for sufficient capacity and ease of maintenance to minimize sewer blockages and spills. Provide grease interceptors for buildings with food service.
74. Sewer pipelines in these locations shall be public: McCandless Drive, Centre Pointe Drive, and Houret Drive. All other water pipelines shall be privately owned and maintained.
75. Show ultimate planned SCVWD creek levee build-out. Provide details such as trail drainage in compliance with SCVWD requirements.
76. All planting/landscaping within the building footprint shall be served by potable water. Due to the drought, all landscaping served by potable water shall be deferred.
77. All landscaping shall be owned, maintained, and operated by the HOA. Podium wrap buildings shall use recycled water for irrigation of street frontage landscaping and ground level landscaping located outside the building perimeter. Townhome projects shall use recycled water for common area landscape.

Conditions of Approval for District Lot 2

78. Improvement Assurance. Prior to issuance of the building permit for District Lot 2, the Permittee shall post security, in a form and amount acceptable to the City, sufficient to cover the costs of constructing median improvements for that portion of the median on McCandless Drive that is adjacent to District Lot 2, including the median improvements which will accommodate a left-in and left-out of the parking structure onto McCandless.
79. Landscape Irrigation. Prior to issuance of a grading permit for District Lot 2, a landscape irrigation plan shall be submitted for the landscaped areas within District Lot 2. (E)
80. Flood Management. The Proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to issuance of a building permit for District 2, the Permittee shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The Permittee shall also obtain a Letter of Map Revision (LOMR) prior to issuance of the first certificate of occupancy for District Lot 2, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report. (E)
81. Traffic. Prior to building permit approval for District Lot 2, the Permittee shall submit plans for approval by the City Traffic Engineer for a left turn in and left turn out off of McCandless.
82. Trail. Prior to submittal for building permit issuance, the Permittee shall submit multi-use trail plans to the Santa Clara Valley Water District for review and approval, and provide their comments to the City. (E)
83. Creek Trail. Prior to approval of a final map for District Lot 2, an access and joint use agreement between the City and the Santa Clara Valley Water District (SCVWD) shall be executed to allow construction and use of a recreational trail on SCVWD's right of way along the north bank of East Penitencia Creek. The trail shall connect to the trail that is shown on Final Map Tracts 10145 and 10148 also located within SCVWD right of way. The Permittee shall assume responsibility for maintenance of the trail in coordination with SCVWD. Regardless of whether or not the joint use agreement is executed, the Permittee shall convey on the final map an access easement to the City over the east/west walkway on Centre Point which shall be used for trail purposes. The east/west walkway on Centre Pointe will only be used for trail purposes only if (1) City and SCVWD do not execute an access and joint use agreement; or (2) the access and joint use agreement were terminated in the future. Permittee shall assume responsibility for maintenance of the east/west walkway on Centre Point if it is used for trail purposes

Conditions of Approval for District Lot 4

84. Landscape Irrigation. Prior to issuance of a grading permit for District Lot 4, a landscape irrigation plan shall be submitted for the landscaped areas within District Lot 4.
85. Flood Management. The project is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to issuance of a building permit for District 2, the Permittee shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The Permittee shall also obtain a Letter of Map Revision (LOMR) prior to issuance of the first certificate of occupancy for District Lot 4, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report. (E)

Conditions of Approval for Centre Pointe B

86. Elevation Certification. Upon completion of grading and prior to issuance of a building permit for Centre Pointe B, the Permittee shall provide a design elevation certificate for each lot within Vesting Tentative Subdivision Map P-MT15-0006.
87. Meter Location. Prior to approval of the final map, the Permittee shall submit plans showing the location of the master meter within the City's right-of-way or easement. (E)
88. Meters. Prior to approval of the final map, the Permittee shall submit plans showing numbered master (City) meters and BF devices, e.g., MM-1, MM-2, BFD-1, etc. (E)
89. Sewers. Prior to approval of the final map, the Permittee shall submit revised plans showing property line cleanout for all sewer laterals. (E)
90. Utility Abandonment. Prior to issuance of a grading permit, Permittee shall submit plans showing that all utility lines to be abandoned will be removed and backfilled. (E)
91. Landscape Irrigation. Prior to issuance of a grading permit for Centre Pointe B, a landscape irrigation plan shall be submitted for the landscaped areas within Centre Pointe B. (E)
92. Centre Point Drive. Prior to approval of the Final Map for Centre Pointe Site B and Centre Pointe Site C, the Permittee of Centre Pointe Site B and Centre Point Site C shall post security, in a form and amount acceptable to the City, sufficient to cover the costs of constructing the Project's share of roadway improvements for Centre Pointe Drive (including the segment of Centre Pointe Drive east of District Lot 3A and to the north of Centre Pointe Site C).
93. Pedestrian Creek Bridge. To ensure that this Permit complies with General Plan Land Use Principle 2a-6-7, Permittee shall contribute \$250,000.00 towards the design and construction of a pedestrian bridge over East Penitencia Creek in the location as shown on

the Site Development Permit. Permittee shall enter into Subdivision Improvement Agreement(s) prior to approval of Final Map MT15-0007 (Centre Pointe B), MT-15-0008 (Centre Point C), and MT15-0009 (Houret) which Agreements shall set forth the percentage of contribution and the payment prior to issuance of the first building permit for each vesting map. (E/P)

Conditions of Approval for Centre Pointe C

94. Elevation Certification. Upon completion of grading and prior to issuance of a building permit for Centre Pointe C, the Permittee shall provide a design elevation certificate for each lot within Vesting Tentative Subdivision Map P-MT15-0007.
95. Meter Location. Prior to approval of the final map, the Permittee shall submit plans showing the location of the master meter within the City's right-of-way or easement. (E)
96. Meters. Prior to approval of the final map, the Permittee shall submit plans showing numbered master (City) meters and BF devices, e.g., MM-1, MM-2, BFD-1, etc. (E)
97. Sewers. Prior to approval of the final map, the Permittee shall submit revised plans showing property line cleanout for all sewer laterals. (E)
98. Utility Abandonment. Prior to issuance of a grading permit, Permittee shall submit plans showing that all utility lines to be abandoned will be removed and backfilled. (E)
99. Landscape Irrigation. Prior to issuance of a grading permit for Centre Pointe C, a landscape irrigation plan shall be submitted for the landscaped areas within Centre Pointe C. (E)
100. Creek Trail. Prior to approval of a final map for Centre Pointe C, an access and joint use agreement between the City and the Santa Clara Valley Water District (SCVWD) shall be executed to allow construction and use of a recreational trail on SCVWD's right of way along the north bank of East Penitencia Creek. The trail shall connect to the trail that is shown on Final Map Tracts 10145 and 10148 also located within SCVWD right of way. The Permittee shall assume responsibility for maintenance of the trail in coordination with SCVWD. Regardless of whether or not the joint use agreement is executed, the Permittee shall convey on the final map an access easement to the City over the east/west walkway on Centre Point which shall be used for trail purposes. The east/west walkway on Centre Pointe will only be used for trail purposes only if (1) City and SCVWD do not execute an access and joint use agreement; or (2) the access and joint use agreement were terminated in the future. Permittee shall assume responsibility for maintenance of the east/west walkway on Centre Point if it is used for trail purposes.
101. Creek Trail. Prior to submittal for building permit issuance, the Permittee shall submit multi-use trail plans to the Santa Clara Valley Water District for review and approval, and provide their comments to the City. (E)

102. Pedestrian Overcrossing. Permittee shall record a deed restriction, binding all successors and assigns, over an approximately 1,700 square feet area at the intersection of Montague Expressway and East Penitencia Creek, which shall be used to construct a landing area for the pedestrian bridge over Montague Expressway referred to in Condition of Approval number 81. (E)
103. Pedestrian Creek Bridge. To ensure that this Permit complies with General Plan Land Use Principle 2a-6-7, Permittee shall contribute \$250,000.00 towards the design and construction of a pedestrian bridge over East Penitencia Creek in the location as shown on the Site Development Permit. Permittee shall enter into Subdivision Improvement Agreement(s) prior to approval of Final Map MT15-0007 (Centre Pointe B), MT-15-0008 (Centre Point C), and MT15-0009 (Houret) which Agreements shall set forth the percentage of contribution and the payment prior to issuance of the first building permit for each vesting map. (E/P)

Conditions of Approval for Houret

104. Houret Vacation. Prior to approval of the Final Map for Houret, the Permittee shall vacate that portion of Houret Drive currently identified for use and development as a cul de sac, and dedicate said portion to the Milpitas Unified School District.
105. Easement Dedication. Prior to approval of the Final Map for Houret, the Permittee shall convey a non-exclusive, 17-foot easement along the south side of East Penitencia Creek to the Santa Clara Valley Water District.
106. Elevation Certification. Upon completion of grading and prior to issuance of a building permit for Centre Pointe B, the Permittee shall provide a design elevation certificate for each lot within Vesting Tentative Subdivision Map P-MT15-0008.
107. Meter Location. Prior to approval of the final map, the Permittee shall submit plans showing the location of the master meter within the City's right-of-way or easement. (E)
108. Meters. Prior to approval of the final map, the Permittee shall submit plans showing numbered master (City) meters and BF devices, e.g., MM-1, MM-2, BFD-1, etc. (E)
109. Sewers. Prior to approval of the final map, the Permittee shall submit revised plans showing property line cleanout for all sewer laterals. (E)
110. Utility Abandonment. Prior to issuance of a grading permit, Permittee shall submit plans showing that all utility lines to be abandoned will be removed and backfilled. (E)
111. Landscape Irrigation. Prior to issuance of a grading permit for Houret, a landscape irrigation plan shall be submitted for the landscaped areas within Houret. (E)
112. Easement Dedication. Prior to approval of the Final Map for Houret, the Permittee shall convey a non-exclusive, 5-foot easement for storm drain maintenance purposes to the City

along the south side of East Penitencia Creek. Increase the width of the existing storm drain PSUE from 15 feet to 20 feet between the end of Houret Drive and Penitencia Creek.

113. Creek Trail. Prior to approval of a final map for Houret, an access and joint use agreement between the City and the Santa Clara Valley Water District (SCVWD) shall be executed to allow construction and use of a recreational trail on SCVWD's right of way along the south bank of East Penitencia Creek. The Permittee shall assume responsibility for maintenance of the trail in coordination with SCVWD.
114. Creek Trail. Prior to submittal for building permit issuance, the Permittee shall submit multi-use trail plans to the Santa Clara Valley Water District for review and approval, and provide their comments to the City. (E)
115. Trail Easement. The Permittee shall convey on the final map an access easement to the City over the east/west walkway on Houret which shall be used for trail purposes. The east/west walkway on Houret will only be used for trail purposes only if (1) City and SCVWD do not execute an access and joint use agreement; or (2) the access and joint use agreement were terminated in the future. Subdivider shall assume responsibility for maintenance of the east/west walkway on Houret if it is used for trail purposes.
116. Pedestrian Creek Bridge. To ensure that this Permit complies with General Plan Land Use Principle 2a-6-7, Permittee shall contribute \$250,000.00 towards the design and construction of a pedestrian bridge over East Penitencia Creek in the location as shown on the Site Development Permit. Permittee shall enter into Subdivision Improvement Agreement(s) prior to approval of Final Map MT15-0007 (Centre Pointe B), MT-15-0008 (Centre Point C), and MT15-0009 (Houret) which Agreements shall set forth the percentage of contribution and the payment prior to issuance of the first building permit for each vesting map. (E/P)

Conditions of Approval for District Lot 3A

119. Landscape Irrigation. Prior to issuance of a grading permit for District Lot 3A, a landscape irrigation plan shall be submitted for the landscaped areas within District Lot 3A. (E)
120. Elevation Certification. Upon completion of grading and prior to issuance of a building permit for District Lot 3A, the Permittee shall provide a design elevation certificate for each lot within Vesting Tentative Subdivision Map P-MT15-0009.
121. McCandless Drive: Prior to approval of the Final Map for District Lot 3A, the Permittee of District Lot 3A shall post security, in a form and amount acceptable to the City, sufficient to cover the costs of constructing the Project's share of roadway improvements for McCandless Drive. Specifically, the segment of McCandless Drive immediately to the west of District Lot 3A, including the median improvements and left hand turn pocket from McCandless Drive onto Market Street.

122. Shuttle: To ensure that this permit complies with General Plan Land Use Principle 2a-6-7, prior to issuance of the certificate of occupancy for the hotel, Permittee shall submit for City review and approval a plan to provide a shuttle serving the hotel, the project area, the Great Mall, BART station and VTA station for a term of no less than three years. The plan shall include an operations plan identifying time of operation, shuttle stops, routing, and long-term funding for the shuttle, and a schedule for shuttle implementation.

Additional Conditions Applicable to All Subareas Within the Project:

123. Rapid Response Squad. To ensure that this Permit complies with General Plan Land Use Principle 2a-6-7, the Permittee shall contribute 100% of the cost of the rapid attach fire apparatus, to a maximum monitory contribution of \$500,000.00 (five hundred thousand dollars). 50% funding shall occur prior to the issuance of a building permit for the hi-rise building(s)/structure(s) and the remainder 50% shall occur prior to the granting of building/structure Occupancy (partial, temporary or final occupancy) by the City Building and Fire Departments. 2013 California Fire Code Section 102.9 (F).
124. Lot Line Adjustment. Center Pointe B and the lot line adjustment The Permittee shall either (1) record a lot tie agreement to tie the two lots under the existing building until such time as the building is demolished; or (2) record a deed restriction restricting its ability to sell the building and requiring Permittee to demolish the building.
125. Density averaging. To ensure compliance with TASP Policy 3.8, Permittee shall cause a deed restriction to be recorded against each parcel within the project memorializing the density averaging principle under which this project has been approved and restricting future development of each parcel in conformance therewith. Such deed restriction shall be in a form acceptable to the City Attorney.
126. Prior to the issuance of a building permit, Permittee shall comply with Milpitas Municipal Code Section XI-10-14 ('Public Art Requirements for Private Development').
127. Prior to issuance of any grading permit, Permittee shall comply with Milpitas Municipal Code Chapter X-2 ('Tree Maintenance and Protection').
128. The Permittee shall provide a construction performance bond equivalent to the cost of the public improvements within the right-of-way along the project frontage.

Key:

- (P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention
(CA) = City Attorney

EXHIBIT 2
ZONING MAP AMENDMENT



EXHIBIT 3
GENERAL PLAN AND SPECIFIC PLAN AMENDMENT

